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ACTIVITIES OF THE ICRC
. FOR POLITICAL DETAINEES
. AGAINST TORTURE

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DEFINITION OF « TROUBLED SITUATIONS » AND « INTERNAL TENSIONS »

At the beginning, and upto 1949, International Humanitarian Law protected only the victims of wars between States. Article 3, which is common to the four Geneva Conventions of 1949, is applied to all non-international armed conflicts, and Additional Protocol II applies to those which show a certain degree of intensity. Humanitarian Law does not include situations of **internal tensions** or **internal disturbances** such as riots, isolated and sporadic acts of violence and other similar acts, which are not considered armed conflicts.

What are these « internal disturbances and tensions » which justify the ad hoc protection of the ICRC, and which lie beyond the scope of the Geneva Conventions and the Additional Protocols ?

The ICRC, on it's part, has tried to define them.

Internal Disturbances :

This refers to situations where, though, strictly speaking, non-international armed conflict does not exist, there is, within the country, a confrontation which is serious, of a certain duration, and which includes acts of violence. These acts may take various forms, ranging from the spontaneous generation of acts of rebellion, to a struggle between groups that are more or less organized and the authorities in power. In such situations, which do not necessarily degenerate into an open confrontation, the authorities in power call upon the vast police force, or even the armed forces to re-establish order within the country. The high number of casualitites has made it necessary to apply a certain minimum of humanitarian regulations.

Internal Tensions :

We may say that this refers especially to situations of serious tension (political, religious, racial, social, economic, etc...), or to the aftermath of an armed conflict or internal disturbances.

Such situations are characterised by one or several of the following, if not all, of the following features :

1) Massive or arbitrary arrests
2) A large number of persons detained for security reasons
3) The probable existence of ill-treatment or inhuman conditions of detention, or else, material and psychological conditions of detention which could affect the physical and mental integrity of the detainee
4) Measures of repression directed against family members or the acquaintances of those persons deprived of liberty as described above
5) The suspension of the fundamental judicial guarantees, especially if a state of emergency has been declared
6) Disappearances
7) The widespread and long-term implementation of measures restricting liberty, such as deportation, exile, restricted residence
8) Resorting to acts of violence which endanger defenceless persons (such as sequestration and taking of hostages), and to acts which spread terror among the civilian population.

BASIS FOR THE ACTION OF THE ICRC

The action of the ICRC when dealing with **internal disturbances and tensions** is based on :

- tradition
- the Resolutions of the International Conferences of the Red Cross
- The Statutes of the International Red Cross and those of the ICRC

Tradition

Until the First World War, the ICRC did not make any distinction between civil war and internal disturbances. It's first act of assistance towards civilian populations affected by disturbances was in 1875, when help was sent to the refugees in Montenegro, who had fled from Herzegovina.

The first visits made to political prisoners were in Russia in 1918, and in Hungary in 1919.

Between the two wars, it's delegates visited persons who had been imprisoned following disturbances or internal tensions, in about half a dozen countries : Ireland (1923), Poland (1924), Montenegro (1924), Italy (1931), Austria (1934), Germany (1935 and 1938), and Lithuania (1937).

However, such visits were occasional and were just the beginning of a tradition. In fact, it was only after World War II, and more specifically, within the framework of the process of decolonisation, that the ICRC increased the number and the rhythm of it's visits to persons who were imprisoned in their own country. Exceptionally, these visits were not made in the context of disturbances or internal tensions, but took the shape of technical assistance to the penitentiary service of a developing country.

But whether it was to give technical assistance, or, as was more frequent, it was to protect the victims of disturbances and internal tensions, it is a fact that since World War II, the ICRC has visited, apart from any situation covered by the Geneva Conventions, more than half a million political prisoners in 95 countries. By way of example, between 1980 and 1985, delegates made 12,250 visits in over 600 places of detention, and either made records of, or spoke privately with 151 000 prisoners of this category.

Most of these visits were made in conditions which conformed to the practices of the ICRC and included the possibility for the delegates to have private conversations with the prisoners of their choice, and to regularly visit these persons and places.

It must be mentioned that certain governments have refused the offers of help from the ICRC, or else permit them only under conditions which the ICRC cannot accept.

There are also situations in which the ICRC is forced to admit that, due to the general attitude of the government, there is no serious possibility of dealing with these questions.

Finally, the growing number of troubled situations and internal tensions has obliged the ICRC to act only in proportion to it's means, which are limited.

The Resolutions of the International Conferences of the Red Cross

In it's Resolution n° XIV, the Xth International Conference of the Red Cross (Geneva, 1921), declared among other things :

« The Red Cross which is above all discrimination as to nationality, race, religious beliefs, class, social or political opinions affirms it's right and duty to render assistance in the case of civil war and social or revolutionary troubles ».

The XXIVth International Conference of the Red Cross held in 1981, made a « **solemn appeal** that the principales of International Humanitarian Law and the **humanitarian principles that are universally recognised should be safeguarded at all times and under all circumstances, and that the International Committee of the Red Cross should be given all the facilities necessary to accomplish the humanitarian mandate that has been confided to it by the International Community.**

In the version of the statutes of the International Red Cross (den Haag, 1928) revised by the XVIIIth International Conference of the Red Cross (Toronto, 1952), Article VI which deals with the ICRC, clearly states :
« As a neutral institution whose humanitarian activity is especially manifested in cases of war, civil war **or internal strife,** it endeavours at all times to assure protection and assistance to the military and civilian victims of these conflicts and of their direct consequences... ».
« It may take any humanitarian initiative which comes within it's role as a specifically neutral and independant institution and intermediary and studies any question requiring examination by such an institution ».

As for the statutes of the ICRC itself, they have either preceded or followed those of the International Red Cross, using identical or similar wording.

IN BRIEF

The fact that the ICRC offers it's services to protect and help persons affected by internal distrurbances and tensions is based on tradition, the Resolutions of the International Conferences of the Red Cross, on the Statutes of the International Red Cross, and on those of the ICRC.
In addition to these facts, the practice of the ICRC and the States in this area, has become firmly established, so that such offers of service are not considered as interference in the internal affairs of the States.
But though the ICRC may offer it's services, no Government is obliged to accept it's offers, unless the situation comes within the scope of the Geneva Conventions.

THE ACTION OF THE ICRC IN CASES OF INTERNAL DISTURBANCES AND TENSIONS

The definitions of « internal disturbances and tensions » clearly show the humanitarian motives of the ICRC in acting in such circumstances : indiscriminate violence, acts of terrorism, hostage-taking, disregard of the law by individuals or the State, forced or involuntary disappearances, poor conditions of detention, torture, etc...
The classical consequence of violence and repression leads to situations in which the individual loses the protection of the State, either because it is no longer capable of maintaining order, or because, in maintaining it, it violates, in it's turn, the principles of humanitarianism.

Persons imprisoned as a consequence of internal disturbances and tensions

Such persons are, traditionally, the first preoccupation of the ICRC in such circumstances. In fact, internal disturbances and tensions have one thing in common : the imprisonment, by the authorities, of certain categories of persons. These individuals have one thing in common : their actions, their words or their writing is considered, by the authorities, an opposition to the existing political system, which must be punished by the deprivation of their liberty. The legal or material nature of this punishment varies : it's aim may be to punish, to prevent, to re-educate or to re-integrate ; it may also result from the enforcement of the normal laws that are in force, or of an emergency legislation ; it may be the result of an administrative measure of indefinite duration.

Even an arrest may be the result of a general and indiscriminate measure affecting entire groups of persons.
Concerned with preserving, by it's neutrality, the confidence of everyone, by not becoming involved in the political problem which is the cause of tensions and disturbances, the ICRC is not concerned with the **reasons** for the imprisonment, but only with the material and psychological **conditions** of the detainees.

This is because experience has shown that, even when the Government of a country wishes to see these prisoners treated humanely, the daily reality of their life in prison could, and should be improved : often treated as « enemies » by the officials who are in direct contact with them, these persons often do not have the possibility of ensuring that their grievances reach the national authorities, who would be both capable and willing to guarantee that they are treated in a more fitting and humane manner. Thus, both during the period of interrogation, and later - when the only security is that provided by the place of detention - the delegates of the ICRC have clearly seen how much is left to be desired in the treatment of these persons.
Faced with such situations, the concrete action of the ICRC consists of periodic and thorough visits, by trained delegates from the ICRC, to places of detention and detainees, followed by discussions at all levels with those in charge of such places and persons, after which confidential reports are sent to the sole authorities in power.
These reports, which take into account the specific social, economic and cultural contexts, describe objectively, and in detail, the conditions of imprisonment and the treatment of the prisoners, and include conrete suggestions to improve them, if such a possibility exists. These reports are not meant for publication. No public comment is ever made on the material and psychological conditions that have been observed. No statement - public or otherwise - is ever made on the reasons for detention.
To ensure that their task of protection is effective, the delegates of the ICRC ask to be allowed to visit all persons who have been detained following certain events, to speak freely and without a witness to prisoners of their choice, and to repeat their visits to these places of detention, if the need should arise. During these visits, and in their assessments, the delegates take into account local conditions and customs.

This procedure generally gives very positive results. What is more, no State has so far complained to the ICRC that it's security was compromised by such visits, or that the legal status of the persons who were visited was affected in any way. This fact deserves special mention, when we remember that the ICRC has visited more than half a million such prisoners in about a hundred countries, since 1918.

TORTURE

Among the various problems related to the treatment of political prisoners, there is one which deserves a special mention, both for it's gravity, as well as for the determination with which the ICRC faces it : that of torture. Torture is forbidden, under any circumstances, both by International Law, as well as by National Legislations. Those States which have not explicitly forbidden torture, do so implicitly.

For the ICRC, the protection of an individual includes his physical integrity, as well as his relational, sensorial, intellectual and emotional integrity. Today, there are a whole range of procedures which can be used in the techniques of torture ; the delegates hear of them when they speak, without witnesses, to the victims, and also see the traces and effects of such techniques on the victims. Beyond this reality, we also have to acknowledge the psychosocial and political dimension of torture. Wherever torture is widespread, the delegates notice that it affects not only the victim, but also his family and social group... without mentioning the torturer himself, who is morally defiled, and often psychologically disturbed by his own acts.

The physical cruelty that has been witnessed by the ICRC is an indication of the boundless imagination of the torturers and the universality of certain techniques. Thus, the delegates of the ICRC have been able to discover, apart from the various forms of physical torture, a whole range of moral and psychological torture and psychological pressures which destroy the identity of the prisoner, without mentioning the material conditions of imprisonment, which are sometimes so terrible, that they can themselves be considered as torture. The delegates in charge of visits to places of detention and prisoners, are specially concerned by the interrogatory phase, the periods of isolation and the uncertainty of a prisoner who has no legal backing.

It is obvious that the first responsibility of fighting torture lies with the governments. It is they who should take the necessary measures (legislative, judiciary and disciplinary) to prevent and suppress acts of torture. In this context, the confidential reports addressed by the delegates to the authorities, which are based on regular visits and private conversations, should enable governments who wish to do so, to fulfill their responsibilities, through a permanent dialogue with the ICRC.

CONCLUSION

The essence of the humanitarian action of the ICRC in cases of internal disturbances and tensions is the protection and the assistance that it offers to the authorities, and which are to be used in favour of those persons who have been imprisoned as a result of such situations.

But this action, however limited it may be, is to be understood in a wider context of humanitarian principles which everyone - governments as well as their opponents - should respect at all times. Neither the responsibility of the authorities to maintain order, or the legitimate motives of those who rise up against those in power, can justify terrorism or torture, violence, hostage-taking or the institutionalisation of arbitration.

The experience of the ICRC has shown that the vicious circle of violence and repression is inevitably made worse when certain rules of behaviour are violated.

Whether it is in the exercice of power, or in the struggle against power, the first victim is too often the dignity of the human being. We forget that every person must be treated with humanity, that his life, his moral and physical integrity and his honour must be respected at all times, regardless of the reproaches made against him.

We forget that nothing can justify murder, torture and any other cruelty or cruel, inhuman or degrading treatment, hostage-taking, forced or involuntary disappearances of persons, collective punishment or any other act of terrorism, the systematic intimidation of a person or group of persons.

Even in the legitimate exercice of power, and in the maintenance of order, the use of force is not always limited - as it should be - to the strict minimum which is necessary. The ICRC is in a position to know how true this is regarding conditions of detention, although every person deprived of this liberty **should** be treated with humanity.